

Application No. 09/902,048
Attorney Docket No. 8163
Response dated October 3, 2005
Reply to Office Action of June 3, 2005

REMARKS

Claims 1-6 and 8-12 are pending in the present application. No additional claims fee is believed to be due.

The Rejection under 35 U.S.C. §103(a) over Schulz Jr. et al. in view of Dreschler et al. in further view of Fowler et al.

Claims 1-6 and 8-12 have been rejected under 35 USC §103(a) as being unpatentable over Schulz et al, US 5,654,362 (hereinafter "Schulz") in view of Dreschler et al., US No. 6,071,503 (hereinafter "Dreschler") in further view of Fowler et al. US No. 5,534,265 (hereinafter "Fowler"). Applicants respectfully traverse this rejection for two reasons. First, there is no motivation to combine the references, as required in MPEP 2143.01. Second, the combined references do not teach or suggest all of the claim limitations, as required in MPEP 2143.03. Specifically, none of the prior references teach or suggest a method for removing transfer resistant make-up compositions comprising the step of applying a safe and effective amount of a make-up removing composition comprising a non-spherical crosslinked siloxane elastomer; a solvent having a solubility parameter of less than or equal to about 9 (cal/cm³)^{1/2}; optionally, water; and an emulsifier, wherein the composition has a viscosity greater than about 20,000 cps. Thus, the obviousness rejection given in the Office Action does not establish a *prima facie* case of obviousness. Therefore, Applicants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

There is no motivation to combine Schulz with Dreschler. Schulz teaches siloxane gels made by reacting a $\equiv\text{Si-H}$ containing polysiloxane with an alpha, omega-diene. Schulz only mentions the use of its silicone elastomers as a color cosmetic remover in a laundry list of potential uses. Most of the specification and the examples are directed to antiperspirant compositions. Moreover, Schulz fails to teach or suggest Applicant's claim in the requisite amounts, particularly, a non-spherical crosslinked siloxane elastomer, a solvent that is suitable for topical application to skin, optionally water, and an emulsifier wherein the composition has a viscosity greater than about 20,000 cps. Dreschler teaches a cosmetic composition applied to the lips comprising the combination of organosiloxane resins and fluid diorganosiloxane resins with a volatile carrier. One skilled in the art would have no motivation to combine Schulz's teachings of

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siloxane gels in an antiperspirant composition with Dreschler's teaching of cosmetic composition applied to the lips comprising organosiloxane resins and fluid diorganosiloxane resins. Therefore, Applicants contend that a *prima facie* case of obviousness has not been established, and the claimed invention is not obvious in view of the cited references.

In addition, the Office Action does not establish a *prima facie* case since the combined references fail to teach an element of the claimed invention. Schulz, Dreschler, and Fowler do not teach or suggest a method for removing transfer resistant make-up compositions comprising the step of applying a safe and effective amount of a make-up removing composition comprising a *non-spherical* crosslinked siloxane elastomer; a solvent having a *solubility parameter of less than or equal to about 9 (cal./cm³)^{1/2}*; optionally, water; and an emulsifier, wherein the composition has a *viscosity greater than about 20,000 cps*. None of the prior references teach or suggest a non-spherical crosslinked siloxane elastomer in combination with a solvent having a specific solubility parameter, wherein the composition has a specific viscosity. As described on page 8, lines 10-18 of the specification, the non-spherical crosslinked siloxane elastomers of the present invention are thought to provide preferred rheology and film properties in order to achieve the benefits of the present invention. Specifically, when forming the gel matrix or network, non-spherical particles swell and/or pack more tightly than spherical particles. There is no hint in the prior references that signifies consideration that non-spherical crosslinked siloxane elastomers of the present invention provide such benefits. Therefore, Applicants contend that a *prima facie* case of obviousness has not been established, and the claimed invention is not obvious in view of the cited references.

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CONCLUSION

In view of the above, Applicants respectfully submit that each of the issues raised by the Office Action has been addressed. Reconsideration and allowance of each of the pending claims is respectfully requested.

Respectfully submitted,

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